

Remarks

Claims 1-40 were rejected by the Examiner under 35 U.S.C. § 103 as being unpatentable over Nielsen (U.S. Patent No. 5,826,031, hereinafter “Nielsen”). Regarding Claim 1, the Examiner stated that Nielsen discloses the claimed feature of an apparatus which transfers the higher priority portions of the image file before the lower priority portions of the image file. The Examiner admitted that Nielsen does not specifically disclose an “image file”, but then took official notice that the “Web file” in Nielsen is an obvious embodiment of the notoriously well known image file. Therefore, the Examiner concluded it would have been obvious to one skilled in the art to have “image file” in the teaching of Nielsen.

Applicant respectfully disagrees and submits that applicants’ claimed invention is patentably distinct over Nielsen. For example, as recited in applicants claim 1, the claimed invention recites an “image file residing in the memory” with the “image file defining higher priority portions and lower priority portions” such that when the image file is transferred the “**higher priority portions** of the image file are transmitted before the **lower priority portions** of the image file”. Independent claims 8, 14, 23, 31 and 35 include similar limitations. Thus, the claimed invention is one in which a **single image file** is defined into higher and lower **portions**, and then transmitted with higher priority portions transmitted before lower priority portions. As described in applicants’ specification, this allows the user to see and act upon the higher priority portions of an image even before all the portions of that image are downloaded to the computers. See applicants’ specification at page 10, lines 5-16

Applicants submit that Nielsen does not disclose the claimed invention. Instead, Nielsen discloses a invention where the different files that make up a web page are downloaded in a specified order. Thus, instead of dividing a single file into high and low priority portions, Nielsen prioritizes different files among themselves. Applicants note that web pages are commonly implemented using a markup language known as hyper-text-markup language, or HTML. The HTML language is then used to define the structure and behavior of the web page. Included in this, is the ability of HTML to reference other files that will be incorporated into the web page. For example, HTML documents can reference graphics files, audio files, applets or other elements, by specifying their file location and how they are to be incorporated into the web page. However, these other elements are not part of the base HTML file itself, but are instead separate files that are referenced by the HTML file. When a web browser downloads a web page, the base HTML file is first downloaded, and then the referenced elements, such as image files are requested by the web browser, downloaded, and integrated into the web page.

Applicants reading of Nielsen finds a reference that discloses the download prioritization of different files referenced by an HTML document, but does not disclose the prioritization of the **portions** of an individual file as claimed by the applicants. See Nielsen Abstract, col. 3, lines 8 - 10, and col. 1, lines 51 - 54. Nielsen describes downloading the "Web File", and then those elements which are external to that "Web File," and un-cached on the receivers' machine, are sorted by the receiver and retrieved in a prioritized manner. See Nielsen col. 8, lines 40 - 46. Applicant notes that Nielsen discloses a sort that takes place on information elements that are external to the Web File. See Nielsen col.1, lines 39 - 42, 51 - 54. In contrast, applicant's claimed invention sort takes place on internal portions of the image file, prior to downloading the image file. Application further notes that Nielsen discloses that the receiver sorts the external elements. See Nielsen col. 8, lines 40 - 48. In

contrast, applicant's claimed invention uses the creator of the image file sorts the constituent elements of the image file.

Thus, applicants submit independent claims 1, 8, 14, 23, 31 and 35 are patentably distinct over the cited references. Furthermore, as claims 2-7, 9-13, 15-22, 24-30, 32-34 and 36-40 depend from, and include all the limitations of their respective independent claims, they are also submitted to be patentably distinct.

Furthermore, regarding claim 2, 8, 17, 23 and 35 the Examiner stated that Nielsen discloses that a receiving computer receives portions of the image file, such that the image viewer can display the higher priority portions of the image file before displaying the lower priority portions of the image file. The Examiner further stated that while Nielsen does not explicitly disclose that "an image interpreter," it is inherent in the web browser in order to display the received image file on the display device. The examiner concluded it would have been obvious to one skilled in the art to have "image interpreter" in the teaching of Nielsen.

Applicant agrees with the Examiner that an image interpreter is an inherent feature of a web browser. However, Applicant points out that it is the prioritizing of the internal elements of the image file, prior to transmittal to the receiver of that file, which is claimed by Applicant. Nielsen does not disclose the prioritization of the "Web File" such that the higher priority elements of that "Web File" are received before the lower priority elements. Nielsen discloses only that external objects, "web objects," which are referenced within the "Web File" are prioritized. See Nielsen, col. 1, lines 51 - 54.

Regarding claims 3, 9, 18, 26 and 38 the Examiner stated that Nielsen discloses that an image prioritization editor residing in the memory, the image prioritization editor allowing at least one portion of an image to be selected and assigned at least one priority.

Applicant respectfully disagrees with the Examiner. Nielsen does not disclose that constituent portions of an image file are prioritized, but rather discloses that objects existing outside of the bounds of the "Web File", but referenced within that Web File, are prioritized. See Nielsen, Abstract, col. 1, lines 51 - 57, and col. 6, lines 13 - 23.

For example, Nielsen mentions an HTML image file tag within the confines of the "Web File." See Nielsen, col. 6, lines 13 - 23. This tag, , is an reference to an image file, mypicture.gif, which exists, as a whole, outside of the bounds of the "Web File." Applying Applicant's invention in this context, the elements of the file mypicture.gif would be prioritized within the confines of the file.

Regarding claim 6, the Examiner stated that Nielsen discloses that the graphics files format comprises a plurality of portions of the image, each portion corresponding to the at least one priority.

Applicant respectfully disagrees with the Examiner. Nielsen discloses a web file with references to objects which are external to the bounds of the web file and it is those external objects which are prioritized for retrieval purposes. See Nielsen, col. 6, lines 13 - 23. Applicant's invention lies in the prioritization of the internal elements of the image file, not in any externally referenced objects.

In summary, none of the references cited by the Examiner nor any other known prior art, either alone or in combination, disclose the unique combination of features disclosed in

applicant's claims presently on file. For this reason, allowance of all of applicant's claims, as amended, is respectfully solicited.

Applicant respectfully requests that all future correspondence for this patent application be sent to:

S. Jared Pitts
Schmeiser, Olsen & Watts LLP
18 East University Drive, #101
Mesa, AZ 85201

(480) 655-0073

Applicants hereby declare that any amendments herein that are not specifically made for the purpose of patentability are made for other purposes, such as clarification, and that no such changes shall be construed as limiting the scope of the claims or the application of the Doctrine of Equivalents.

The Applicants herewith petitions the Commissioner of Patents and Trademarks to extend the time for reply to the office action dated August 8, 2000 for one month. Submitted herewith is a check for \$110.00 to cover the cost of the extension. If any additional fees, including additional extension of time fees, are due as a result of this response, please charge IBM Corp. Deposit No. 09-0465. This authorization is intended to act as a constructive petition or an additional extension of time, should an additional extension of time be needed as a result of this response. Please credit any overpayment to the above number deposit account. The Examiner is invited to telephone the undersigned if this would in any way advance the prosecution of this case.

Respectfully submitted,

By 

S. Jared Pitts
Reg. No. 38,579

SCHMEISER, OLSEN & WATTS LLP
18 East University Drive, #101
Mesa, AZ 85201
(480) 655-0073